

**REMARKS**

Claims 1-10 are all the claims pending in the application.

**Rejection of claims under § 103 as being unpatentable over Chuah in view of Yoshii**

Claims 1-6, and 9-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuah et al. (US Patent Pub. No. 2005/0085254) in view of Yoshii et al. (US Patent Pub. No. 2005/0164740).

**Claim 1**

Claim 1 recites, *inter alia*, defining a second criterion representing a distance between the broadcast source and the mobile terminals **for using a shared channel in said geographic zone** and for which a reception of the broadcast service is optimal. The Examiner concedes that Chuah fails to disclose or suggest defining a second criterion representing a distance between the broadcast source and the mobile terminals for using a shared channel in said geographic zone and for which a reception of the broadcast service is optimal and cites Yoshii to make up for the deficiency. Yoshii, however, discloses the hierarchy division of the transmission rates and reception quality according to the distance of a mobile terminal from its base station (page 1, paragraph 8) thereby suggesting the use of several MBMS channels suited to different mobile stations distances within a cell. Therefore, Yoshii only considers a set of broadcast channels which are each optimized for different fixed distances within a cell.

In addition, Yoshii fails to disclose or suggest the case where the mobile stations have to initiate connection to signal the fact that they lie on the cell boundary which would be trivial for a shared channel in a geographic zone.

For at least the reasons submitted above, Applicant respectfully submits that claim 1 is patentable.

Claim 3

Applicant submits that claim 3 is patentable. Chuah discloses a determination that is made to support users by a first and a second transmission scheme for multicasting services based on measured values (page 3, paragraph 26). By merely assessing how many end users can receive the multicast information via a first transmission protocol and how many users can receive the multicast information via a second transmission protocol (page 2, paragraph 17), Chuah fails to suggest or disclose **fixing a percentage** of mobile terminals that should receive the MBMS service. Chuah, on the other hand, discloses multicast transmission through either the first or second transmission protocol to **all** the users in a given cell area (page 2, paragraph 17).

For at least the reasons submitted above, Applicant respectfully submits that claim 3 is patentable.

Claim 5

Claim 5 recites the process according to claim 4, *inter alia*, a minimum level of received signal code power (RSCP) **measured by code indicated by said cellular telecommunication network**. Chuah, however, discloses a received pilot signal power that is **measured by each end user** such as UE 222 in Fig. 2 (page 3, paragraph 23). Therefore, there is a patentable difference between the process as recited in claim 5 to that disclosed by Chuah in view of Yoshii.

Claim 5 which depends from claim 1, is patentable for at least the reasons submitted above and by virtue of its dependency.

Claims 2-4, and 6 which depend from claim 1, are patentable at least by the virtue of their dependencies.

Claim 9

Yoshii discloses a radio communication method capable of performing appropriate reception quality control in which the transmission rates and reception quality of the mobile stations are divided according to their distances from the base station (page 1, paragraph 8). By merely disclosing a radio communication method to divide reception quality and transmission rates based on the distance of a mobile station from a base station, Applicant respectfully submits that Yoshii fails to disclose or suggest a means for establishing connections with said cellular telecommunication network in the cases: in which **a distance between the mobile terminal and the broadcast source is greater than a distance established in advance** by said cellular telecommunication network. Applicant notes that according to the Examination Guidelines for Claims Reciting a "Means or Step Plus Function" Limitation, the application of a prior art reference to a means or step plus function limitation requires that the prior art element perform the identical function specified in the claim. See MPEP § 2182. Since Yoshii's reference fails to perform the identical function specified in claim 9, claim 9 is not disclosed or suggested by Yoshii.

For at least the reasons submitted above, Applicant respectfully submits that claim 9 is patentable.

Claim 10 which depends from claim 9, is patentable by virtue of its dependency.

**Rejection of claims under § 103 as being unpatentable over Chuah in view of Yoshii  
further in view of Lee**

Claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Chuah et al. (US Patent Pub. No. 2005/0085254) in view of Yoshii et al. (US Patent Pub. No. 2005/0164740) and further in view of Lee et al. (US Patent Pub. No. 2004/0146041).

Claims 7 and 8 which depend from claim 1, are patentable at least by virtue of their dependencies.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Appl. No.: 10/587,953

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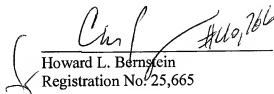
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